

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

JOHN T. VIARS,

Plaintiff,

v.

Civil Action No. 5:15-cv-15410
(formerly Circuit Court of Wyoming County, West
Virginia Civil Action No. 15-C-170)

**GREENBRIER MINERALS, LLC, and
NATHAN BRADA, Individually**

Defendants.

NOTICE OF REMOVAL

TO: Teresa L. Deppner, Clerk
110 North Heber Street,
Room 119
Beckley, WV 25801

Richard W. Walters, Esquire
Shaffer & Shaffer, PLLC
P.O. Box 3973
2116 Kanawha Boulevard, East
Charleston, WV 25339

Defendant Greenbrier Minerals, LLC (“Greenbrier Minerals”) hereby give notice of removal of the action styled *John T. Viars v. Greenbrier Minerals, LLC et al.*, Civil Action No. 15-C-170, pending in the Circuit Court of Wyoming County, West Virginia, to the United States District Court for the Southern District of West Virginia, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446. In support of removal, Greenbrier Minerals states as follows:

1. On September 8, 2015, Plaintiff John T. Viars filed his Complaint in the Circuit Court of Wyoming County, West Virginia, alleging against Greenbrier Minerals and Nathan Brada (“Brada”) claims for (1) interference in violation of the Family and Medical Leave Act, 29 U.S.C. §§ 2601 *et seq* (“FMLA”); (2) discrimination and retaliation in violation of the FMLA;

(3) wrongful discharge in violation of public policy as enacted through the FMLA; (4) intentional infliction of emotional distress; and (5) negligent infliction of emotional distress. A copy of the Complaint is attached hereto as Exhibit 1.

2. This action is properly removable under 28 U.S.C. § 1441, and this Court has original jurisdiction of this case under 28 U.S.C. § 1331, inasmuch as Plaintiff's claims for interference, discrimination, retaliation, and wrongful discharge in violation of the FMLA arise under the laws of the United States, and thus create federal questions.

3. All state law causes of action asserted in Plaintiff's Complaint also are removable as a result of the Court's supplemental jurisdiction over those claims under 28 U.S.C. § 1367.

4. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b), in that Greenbrier Minerals received service of the Complaint through the West Virginia Secretary of State on October 23, 2015, and this Notice of Removal is being filed within thirty (30) days of that date.

5. Defendant Brada has not yet received service of the Complaint, but does consent to its removal by Greenbrier Minerals. [Exhibit 2]

6. The Circuit Court of Wyoming County is located within the Southern District of West Virginia, Beckley Division.

7. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served in the state court action are attached collectively as Exhibit 3. A certified copy of the docket sheet is attached as Exhibit 4.

8. Greenbrier Minerals reserves the right to amend or supplement this Notice of Removal or to present additional arguments in support of its entitlement to remove this case.

8. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Circuit Court of Wyoming County, West Virginia. A copy of the Notice of Filing of Notice of Removal is attached as Exhibit 5.

Respectfully submitted,

GREENBRIER MINERALS, LLC

By Counsel

/s/ William E. Robinson

William E. Robinson (WV State Bar # 3139)

Katherine B. Capito (WV State Bar #11633)

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Defendants.

CERTIFICATE OF SERVICE

I, William E. Robinson, do hereby certify that the foregoing **Notice of Removal** was served upon all parties via the CM/ECF Court System on this the 20th day of November, 2015 to the following counsel of record:

Richard W. Walters, Esquire
Shaffer & Shaffer, PLLC
P.O. Box 3973
2116 Kanawha Boulevard, East
Charleston, WV 25339
Counsel for Plaintiff

/s/ William E. Robinson
William E. Robinson (WV State Bar #3139)